

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of the Proposed Water Management and Conservation Plan for Port of Portland, Multnomah County, Oregon)))
PROPOSED FINAL ORDER
APPROVING WATER MANAGEMENT
AND CONSERVATION PLAN

Authority

OAR Chapter 690, Division 086, establishes the process and criteria for approving water management and conservation plans required under the conditions of permits, permit extensions and other orders of the Department. An approved water management plan may authorize the diversion and use of water under a permit extended pursuant to OAR Chapter 690, Division 315.

Background

The Port of Portland applied for a surface water permit in November 1992 for municipal uses to create a non-potable water system within the Port's service areas. Permit S-51547 was issued in October 1994 with a condition requiring the submittal of a water management and conservation plan. The Port had already submitted a Non-Potable Water System Preliminary Conservation and Curtailment Plan in May 1994. No comments were provided on this plan. In July 1996, the Port applied for a groundwater permit with the intent of subtracting the amount of water developed under the groundwater permit from the Port's surface water right on the Columbia and Willamette Rivers (S-51547). Groundwater permit G-13093 was issued in January 1997 with a condition requiring submittal of an amended Water Management and Conservation Plan (WMCP). In November 1997, the Port requested more time for submittal of the WMCP until October 1999. OWRD approved the new submittal date.

In December 1999, the Port submitted a draft WMCP for review by the Department. During the 30-day public review period of the draft WMCP, the Department received comments from WaterWatch of Oregon, METRO Regional Government, Oregon Trout, and the Smith Bybee Lakes Management Committee. The concerns expressed in the comments fall into three general categories:

1. Concerns over potential impacts resulting from reduction in surface water flows;
2. Concerns over potential ground water contamination; and
3. Concerns regarding compliance with the water management and conservation planning and other permit conditions.

Pursuant to OAR 690-086-0910 (1994) and OAR 690-086-0915 (2002), the applicant or any person who provided comments in response to the public notice of submittal of the plan may appeal this order to the Water Resources Commission within 30 days of the mailing of this notification.

The Department did not complete its review of the draft WMCP because new rules were in the process of being developed. In October 2002, the new WMCP rules were adopted (OAR Chapter 690, Division 086), and in a letter dated March 5, 2003, the Department outlined a work plan to address concerns expressed in the earlier comments. The work plan included the following measures:

1. Develop a water conservation element for management of potable and non-potable water at the Portland International Airport. The plan element shall identify strategies for increasing the efficiency of potable water use at Port facilities and providing water conservation information to airport employees and customers. In developing the plan element, the Port shall consider participation in City of Portland conservation programs.

2. Prepare an updated Water Management and Conservation Plan that addresses all potable and non-potable water diverted or used by the Port and providing justification for any proposed increases in the quantities of water diverted or used beyond current levels. (Completion date: February 1, 2008)

3. Prepare and submit to the Water Resources Department, a progress report describing the Port's planning and implementation activities under the existing Water Management and Conservation Plan and the conservation element described in work plan item #1. (Completion date: February 1, 2005)

4. Submit to the Department the updated Water Management and Conservation Plan prepared under work plan item #2. (Completion date: April 1, 2008)

Findings of Fact

The Port of Portland Water Management and Conservation Plan and work plan contains all of the plan elements required under OAR 690-086-0125. At the same time, the Port requested review and approval as allowed under OAR 690-086-0100(3). The Department finds that:

1. The Plan includes 3-year benchmarks for implementation of annual water audits, meter testing and maintenance, and a public education program. The 2008 update, as required in work plan item #2 above, may convert to 5-year benchmarks. The system is fully metered and the rate structure includes a volumetric charge. System leakage is not estimated.

2. The Plan does not include 5-year benchmarks for evaluation, development, and implementation of programs to provide technical and financial assistance. The Water Resources Department recognizes that further development of this aspect of the Plan may be dependent on customer base in 2008.

3. The Plan supplies some data for retrofit fixtures, reuse water, and other measures, but the 5-year benchmarks for evaluation, development, and implementation of programs will need to be further developed.

4. The Plan also includes some information demonstrating that the Port's rate structure encourages water conservation; however, the rates are not compared to the statewide average and the 5-year benchmarks for evaluation, development, and implementation of programs will need to be developed.

5. The Plan identifies ground water and the Willamette River as the sources of the Port's water rights. The Plan does not address the presence of fish species that are listed as threatened species under the federal Endangered Species Act or the presence of fish species listed as state-sensitive. The Plan should state whether the Willamette River is designated as water-quality limited. In addition, the Plan identifies the Willamette River as providing essential habitat for Chinook, coho, and pink salmon.

6. The water curtailment element shall be coordinated with the local governments.

7. The diversion of water under Port-held water right permits will be improved during the next 20 years and consistent with OAR 690-086-0130.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Port of Portland in December 1999, as supplemented by the Port in response to the Department's March 5, 2003 correspondence, is consistent with the criteria in OAR Chapter 690, Division 086.

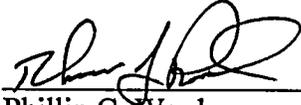
Now, therefore, it is ORDERED:

1. The Port of Portland Water Management and Conservation Plan and Water Conservation Work Plan are approved and shall remain in effect until April 1, 2008, unless this approval is rescinded pursuant to OAR 690-086-0920.

2. The Port of Portland is authorized to continue to divert up to 5,600 gallons per minute or 12.48 cfs under Permits S-51547, G-13093, S-53884, G-10967, and G-13387 subject to other limitations or conditions of the permits. The Port of Portland Water Management and Conservation Plan thus satisfies the requirement contained in OAR 690-315-0090(3) for all pending permit extension requests submitted by the Port to the Department and those permit extension requests that may be submitted by the Port to the Department prior to April 1, 2008. The Port of Portland Water Management and Conservation Plan shall remain in effect until an updated, superseding plan is approved by the Department.

3. The Port of Portland shall submit an updated plan consistent with OAR Chapter 690, Division 86 as adopted in November 2002 by April 1, 2008.

Dated at Salem, Oregon this 29th day of JUNE, 2004.



For Phillip C. Ward
Acting Director

Mailing date: June 24, 2004



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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June 24, 2004

Dorothy Sperry
Port of Portland
P.O. Box 3529
Portland, OR 97208

Re: Proposed Final Order for Water Management and Conservation Plan

Dear Ms. Sperry:

Thank you for your work on the Port of Portland's Water Management and Conservation Plan (WMCP). The Department appreciates your efforts to incorporate the entire potable water supply for all of the Port's facilities into the WMCP. While this strategy will take longer to implement, the advantages will be worth extra time to expand these features of the Water Management and Conservation Plan. The improvements you have incorporated in the potable and non-potable water supply and the work plan have allowed the Department to move forward with the enclosed proposed final order.

We have sent copies of this correspondence to those that commented on the public notice of this plan.

If you have any questions or other needs, please feel free to contact us.

Sincerely,

Bill Fujii, NRS III

Cc WaterWatch of Oregon
METRO
Oregon Trout
Smith and Bybee Lakes Management Committee